

Serial No.: 10/749,988

Amendment dated , 2007

Reply to Office Actions of September 19, 2007

**Remarks**

Claims 1 and 3-26 are pending in the instant application. Claims 6 and 15 are withdrawn. Independent claims 1, 11, and 21 are amended to clarify the claimed subject matter. Claims 1 and 3-5, 7-14, and 16-26 form the subject matter of this response. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

**Case Family**

The following data with respect to the family of cases related to the present application is presented for the Examiner's information.

<b>Appl. No./ Atty Docket No.</b>	<b>Examiner (Art Unit)</b>	<b>Current status</b>	<b>References cited in current rejections</b>
10/366,372 17858	Ginger T. Chapman (3761)	Response on November 27, 2007 to Non-Final OA dated September 5, 2007.	3,561,446 2,764,859 5,484,636
10/750,479 17858.1	Jacqueline F. Stephens (3761)	Notice of Appeal filed on November 16, 2007.	6,318,555
10/750,505 17858.2	Sameh Tawfik (3721)	Non-Final OA dated October 17, 2007.	JP 10-095,481
10/749,988 17858.3	Luan Kim Bui (3728)	This response to Non- Final OA dated September 19, 2007.	3,403,776 2,676,702 JP 10-095,481 6,640,976 3,286,435 4,896,768

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### **Rejections Under 35 U.S.C. § 102**

**Denny does not disclose each and every element of the claimed invention.**

By way of the Office Action mailed September 19, 2007, the Examiner rejects claims 1, 3, 4, and 7 under 35 U.S.C. § 102(b) as allegedly being anticipated, and thus unpatentable, over U.S. Patent No. 3,403,776 to Denny (hereinafter "Denny"). This rejection is respectfully traversed.

Denny is directed to a sterile surgical package. Independent claim 1 of the present invention is directed to a package enclosing a single disposable garment-type absorbent article, the package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

First, the Applicant asserts that Denny fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 1. Denny is directed to surgical articles and focuses primarily on a surgical sponge. Denny requires its package to be impervious to bacteria and pervious to sterilizing gases. Because these are not necessarily requirements for packaging a garment-type absorbent article, one would not look to Denny for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Denny fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claim 1. Denny does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Denny's package is made from specialty paper and "a thin polypropylene film" on which the seals need to be offset such that the film doesn't tear (see col. 4, lines 53-61). Denny does not disclose the rigidity of either of these materials, or whether their rigidities are different.

Similarly, because Denny does not disclose rigidity, and even if one assumes *arguendo* that one material is more rigid than the other, Denny cannot anticipate both claim 3 and claim 4. We don't know which material is more rigid (assuming one is), and they can't both be more rigid than the other. Finally, with respect to claim 7, Denny does not disclose, teach, or suggest at least a portion of the first piece of material and at least a portion of the second piece of material extending beyond the seal to deliver an opening element, wherein the portion

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of the first piece of material and the portion of the second piece of material are non-coterminous. In fact, the Office Action is silent with respect to how Denny might anticipate claim 7.

Accordingly, for at least these reasons, the Applicant respectfully submits that independent claim 1 and dependent claims 3, 4, and 7 are patentable over Denny.

### **Rejections Under 35 U.S.C. § 103**

**Whitefoot does not disclose each and every element of the claimed invention, nor does it make obvious the claimed invention.**

By way of the Office Action mailed September 19, 2007, the Examiner rejects claim 21 under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 2,676,702 to Whitefoot, Jr. (hereinafter "Whitefoot"). This rejection is respectfully **traversed**.

Whitefoot is directed to a sanitary package. Independent claim 21 of the present application is directed to a package enclosing a single disposable garment-type absorbent article. First, the Applicant asserts that Whitefoot fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 21. Whitefoot is directed to surgical articles and focuses primarily on a surgical sponge. Whitefoot's package requires its package to be made from a porous material to allow for sterilization. Because this is not necessarily a requirement for packaging a garment-type absorbent article, one would not look to Whitefoot for a garment-type absorbent article packaging solution.

Accordingly, for at least these reasons, the Applicant respectfully submits that independent claim 21 is patentable over Whitefoot. Moreover, claims 22-26, which all eventually depend from claim 21, are also accordingly patentable over Whitefoot.

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Denny in view of Whitefoot does not make obvious the claimed invention.

By way of the Office Action mailed September 19, 2007, claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Denny in view of Whitefoot. This rejection is respectfully **traversed**.

As discussed above with respect to claim 1, Denny fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 5. Denny is directed to surgical articles and focuses primarily on a surgical sponge. Denny requires its package to be impervious to bacteria and pervious to sterilizing gases. Because these are not necessarily requirements for packaging a garment-type absorbent article, one would not look to Denny for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Denny fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claim 5. Denny does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Denny's package is made from specialty paper and "a thin polypropylene film" on which the seals need to be offset such that the film doesn't tear (see col. 4, lines 53-61). Denny does not disclose the rigidity of either of these materials, or whether their rigidities are different. Whitefoot does not correct these deficiencies. Whitefoot and Denny, alone or in combination, fail to disclose, teach, or suggest a package including, *inter alia*, enclosing a single disposable garment-type absorbent article, the package including a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

Accordingly, for at least these reasons, the Applicant respectfully submits that claim 5 is patentable over Denny in view of Whitefoot.

Denny in view of Narawa does not make obvious the claimed invention.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Denny in view of Japanese Patent No. 10-95481 to Narawa (hereinafter "Narawa"). This rejection is respectfully **traversed**.

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As discussed above with respect to claim 1, Denny fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 8. Denny is directed to surgical articles and focuses primarily on a surgical sponge. Denny requires its package to be impervious to bacteria and pervious to sterilizing gases. Because these are not necessarily requirements for packaging a garment-type absorbent article, one would not look to Denny for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Denny fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claim 8. Denny does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Denny's package is made from specialty paper and "a thin polypropylene film" on which the seals need to be offset such that the film doesn't tear (see col. 4, lines 53-61). Denny does not disclose the rigidity of either of these materials, or whether their rigidities are different. Narawa does not correct these deficiencies. Narawa and Denny, alone or in combination, fail to disclose, teach, or suggest a package including, *inter alia*, enclosing a single disposable garment-type absorbent article, the package including a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

Further, the structure of Denny points to the flaw in combining Denny and Narawa. Denny requires its package to be gas pervious to enable sterilization. Combining Denny and Narawa leads to a package that cannot be vacuum packed because it is gas pervious, or a package that is not gas pervious and thus cannot be sterilized. Either way, the combination to Denny and Narawa produces a package that will not work for either, meaning one skilled in the art would not combine these references.

Therefore, for at least these reasons, the rejection of claim 8 is respectfully requested to be withdrawn.

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Denny in view of Frank-Farah does not make obvious the claimed invention.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Denny in view of U.S. Patent No. 6,640,976 to Franks-Farah et al. (hereinafter "Franks-Farah"). This rejection is respectfully **traversed**.

As discussed above with respect to claim 1, Denny fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 9. Denny is directed to surgical articles and focuses primarily on a surgical sponge. Denny requires its package to be impervious to bacteria and pervious to sterilizing gases. Because these are not necessarily requirements for packaging a garment-type absorbent article, one would not look to Denny for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Denny fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claim 9. Denny does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Denny's package is made from specialty paper and "a thin polypropylene film" on which the seals need to be offset such that the film doesn't tear (see col. 4, lines 53-61). Denny does not disclose the rigidity of either of these materials, or whether their rigidities are different. Franks-Farah does not correct these deficiencies. Franks-Farah and Denny, alone or in combination, fail to disclose, teach, or suggest a package including, *inter alia*, enclosing a single disposable garment-type absorbent article, the package including a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

Further, while Franks-Farah mentions matching color coding or icons between instructions and an item, neither Franks-Farah nor Denny disclose, teach, or suggest an opening element coded to indicate the size or type of an absorbent article.

Therefore, for at least these reasons, the rejection of claim 9 is respectfully requested to be withdrawn.

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Weinberger in view of Denny or Anderson does not make obvious the claimed invention.

Claims 1, 3, 4, 7, 10-14 and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 3,286,435 to Weinberger (hereinafter "Weinberger") in view of Denny or U.S. Patent No. 4,896,768 to Anderson (hereinafter "Anderson"). This rejection is respectfully traversed.

With respect to claims 1 and 11, Weinberger fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claims 1 and 11. Weinberger is directed to a moist packaged article and a method of making the same. Weinberger requires its package to resist liquid leaks. Because this is not a requirement for packaging a garment-type absorbent article, one would not look to Weinberger for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Weinberger fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claim 1. Weinberger does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Denny does not correct these deficiencies, as discussed above. Anderson also does not correct these deficiencies; the two packaging materials in Anderson are identical: "First and second layers 12 and 16, each include a layer of aluminum foil and a layer of polyethylene." See col. 3, lines 5-6 and Fig. 7. Weinberger, Denny, and Anderson, alone or in combination, fail to disclose, teach, or suggest a package including, *inter alia*, enclosing a single disposable garment-type absorbent article, the package including a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

Further, Weinberger, Denny, and Anderson, alone or in combination, fail to disclose, teach, or suggest a disposable garment-type absorbent article having a folded configuration and an unfolded configuration, and wherein the absorbent article has a ratio of the folded configuration to the unfolded configuration of less than 0.14. Weinberger shows a single-layer moist wipe being folded, but does not teach or suggest folding something of the complex nature of a garment-type absorbent article. In an analogy presented only for illustration purposes, the ability to fold a piece of paper into quarters or eighths does not indicate that one has the ability to fold a dictionary (made from paper) into quarters or eighths. Folding a wipe cannot teach folding a complex garment-type absorbent article.

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Therefore, for at least these reasons, the rejection of claims 1, 3, 4, 7, 10-14 and 20 are respectfully requested to be withdrawn

Whitefoot does not make obvious the claimed invention.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the references as applied to claim 1 above and further in view of Whitefoot. This rejection is respectfully **traversed**.

With respect to claim 1, Weinberger fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 5. Weinberger is directed to a moist packaged article and a method of making the same. Weinberger requires its package to resist liquid leaks. Because this is not a requirement for packaging a garment-type absorbent article, one would not look to Weinberger for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Weinberger fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claim 5. Weinberger does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Neither Denny, nor Anderson, nor Whitefoot correct these deficiencies, as discussed above. Weinberger, Denny, Anderson, and Whitefoot, alone or in combination, fail to disclose, teach, or suggest a package including, *inter alia*, enclosing a single disposable garment-type absorbent article, the package including a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

Therefore, for at least these reasons, the rejection of claim 5 is respectfully requested to be withdrawn.

Narawa does not make obvious the claimed invention.

Claims 8 and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the references as applied to claims 1 and 11 above and further in view of Narawa. This rejection is respectfully **traversed**.



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In addition to the deficiencies noted above in Weinberger, Denny, and Anderson with respect to claims 1 and 11, it appears that the further addition of Narawa would not only fail to correct these deficiencies, but would also create additional problems. It is not clear why one skilled in the art would want to vacuum pack the moist wipe of Weinberger, as suggested by the Examiner. Drawing a vacuum on a moist wipe would cause the moisture to boil, which would release gas that would be drawn away by the vacuum pump so as not to increase the pressure in the package. Eventually the moist wipe would no longer be moist, thus defeating its purpose.

Therefore, for at least these reasons, the rejection of claims 8 and 16 is respectfully requested to be withdrawn.

Franks-Farah does not make obvious the claimed invention.

Claims 9, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the references as applied to claims 1 and 11 above and further in view of Franks-Farah. This rejection is respectfully **traversed**.

In addition to the deficiencies noted above in Weinberger, Denny, and Anderson with respect to claims 1 and 11, the further addition of Franks-Farah would fail to correct these deficiencies. Further, while Franks-Farah mentions matching color coding or icons between instructions and an item, neither Franks-Farah nor Denny disclose, teach, or suggest an opening element coded to indicate the size or type of an absorbent article.

Therefore, for at least these reasons, the rejection of claims 9, 17, and 18 are respectfully requested to be withdrawn.

Official Notice does not make obvious the claimed invention.

Claim 19 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the references as applied to claim 17 above, and further in view of The Official Notice. This rejection is respectfully **traversed**.

In addition to the deficiencies noted above in Weinberger, Denny, and Anderson with respect to claims 1 and 11, the further addition of Franks-Farah would fail to correct these

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deficiencies. Further, while Franks-Farah mentions matching color coding or icons between instructions and an item, neither Franks-Farah nor any of the other references disclose, teach, or suggest an opening element coded to indicate the size or type of an absorbent article. Official Notice does not correct these deficiencies because there is no opening element coding in the prior art to add to with Official Notice.

Therefore, for at least these reasons, the rejection of claim 19 is respectfully requested to be withdrawn.

Weinberger in view of Whitefoot does not make obvious the claimed invention.

Claims 21 and 26 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Weinberger and further in view of Whitefoot. This rejection is respectfully **traversed**.

With respect to claim 21, Weinberger fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claim 21. Weinberger is directed to a moist packaged article and a method of making the same. Weinberger requires its package to resist liquid leaks. Because this is not a requirement for packaging a garment-type absorbent article, one would not look to Weinberger for a garment-type absorbent article packaging solution. Whitefoot does not correct this deficiency, as described in more detail above.

Further, Weinberger and Whitefoot, alone or in combination, fail to disclose, teach, or suggest a disposable garment-type absorbent article having a folded configuration and an unfolded configuration, and wherein the absorbent article has a ratio of the folded configuration to the unfolded configuration of less than 0.14. Weinberger shows a single-layer moist wipe being folded, but does not teach or suggest folding something of the complex nature of a garment-type absorbent article. In an analogy presented only for illustration purposes, the ability to fold a piece of paper into quarters or eighths does not indicate that one has the ability to fold a dictionary (made from paper) into quarters or eighths. Folding a wipe cannot teach folding a complex garment-type absorbent article.

Therefore, for at least these reasons, the rejection of claims 21 and 26 is respectfully requested to be withdrawn.

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Weinberger in view of Denny or Anderson does not make obvious the claimed invention.

Claims 22-24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the references as applied to claim 21 above, and further in view of Denny or Anderson. This rejection is respectfully traversed.

With respect to claims 22-24, Weinberger fails to disclose, teach, or suggest a package enclosing a single disposable garment-type absorbent article as required by claims 22-24. Weinberger is directed to a moist packaged article and a method of making the same. Weinberger requires its package to resist liquid leaks. Because this is not a requirement for packaging a garment-type absorbent article, one would not look to Weinberger for a garment-type absorbent article packaging solution. In addition, the Applicant asserts that Weinberger fails to disclose, teach, or suggest a package including, *inter alia*, a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities as required by claims 22-24. Weinberger does not disclose, teach, or suggest the rigidities, relative or otherwise, of its packaging materials. Denny does not correct these deficiencies, as discussed above. Anderson also does not correct these deficiencies; the two packaging materials in Anderson are identical: "First and second layers 12 and 16, each include a layer of aluminum foil and a layer of polyethylene." See col. 3, lines 5-6 and Fig. 7. Weinberger, Whitefoot, Denny, and Anderson, alone or in combination, fail to disclose, teach, or suggest a package including, *inter alia*, enclosing a single disposable garment-type absorbent article, the package including a first piece of material and a second piece of material, wherein the first piece of material and the second piece of material have different rigidities.

Therefore, for at least these reasons, the rejection of claims 22-24 is respectfully requested to be withdrawn.

Narawa does not make obvious the claimed invention.

Claim 25 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the references as applied to claim 21 above, and further in view of Narawa. This rejection is respectfully traversed.

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In addition to the deficiencies noted above in Weinberger and Whitefoot with respect to claim 21, it appears that the further addition of Narawa would not only fail to correct these deficiencies, but would also create additional problems. It is not clear why one skilled in the art would want to vacuum pack the moist wipe of Weinberger, as suggested by the Examiner. Drawing a vacuum on a moist wipe would cause the moisture to boil, which would release gas that would be drawn away by the vacuum pump so as not to increase the pressure in the package. Eventually the moist wipe would no longer be moist, thus defeating its purpose.

Therefore, for at least these reasons, the rejection of claim 25 is respectfully requested to be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

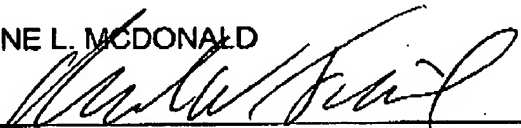
Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

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